

House File 2294 - Introduced

HOUSE FILE 2294

BY NUNN

A BILL FOR

1 An Act relating to the provision of prekindergarten services
2 using innovative financing partnership contracts, providing
3 financing authority to the treasurer of state, and making
4 appropriations.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **256E.1 Definitions.**

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Department*" means the department of administrative
5 services.

6 2. "*Director*" means the director of the department of
7 administrative services.

8 3. "*Note*" means an innovative financing partnership note
9 issued by the treasurer of state for the fund and the purposes
10 of this chapter.

11 Sec. 2. NEW SECTION. **256E.2 Innovative financing**
12 **partnership program — contract criteria — parties.**

13 1. *Program established.* Subject to an appropriation of
14 funds by the general assembly for the purpose of facilitating
15 the formation of innovative financing partnerships between the
16 department and contracting parties for the operation of local
17 prekindergarten programs that result in positive educational
18 and developmental outcomes that have both a positive fiscal
19 impact on governmental entities and are strongly supported by
20 a given historical model, an innovative financing partnership
21 program is established in the department of administrative
22 services and shall be administered by the department in
23 collaboration with the department of education.

24 2. *Contracting parties.* The parties to an innovative
25 financing partnership contract entered into under this chapter
26 shall consist of the following:

27 a. One or more service providers who provide prekindergarten
28 services to at-risk three-year-old and at-risk four-year-old
29 children under chapter 237A, 256, 256A, 256C, 256G, 279, or
30 280.

31 b. Investors who provide the capital to expand and deliver
32 prekindergarten services under the contract. Such investors
33 may include but are not limited to philanthropic investors
34 seeking a full or partial return of principal, and federal
35 agencies that are not seeking a financial return.

1 *c.* An independent evaluator to determine whether the
2 prekindergarten services provided under the contract resulted
3 in positive educational and developmental outcomes that have
4 both a positive fiscal impact on governments and are strongly
5 supported by a given historical model.

6 *d.* One or more outcomes payers who agree to repay the
7 investors only if the independent evaluator makes the
8 determinations identified in paragraph "*c*". Outcomes payers
9 may also include any governmental entity, including but
10 not limited to a school district, the child development
11 coordinating council, or any private entity who agrees to
12 commit to pay investors for outcomes achieved. Investors may
13 be paid for the principal invested and the interest earned,
14 but the total payment shall not exceed ninety percent of the
15 state's budgetary value for the outcomes.

16 3. *Proposal criteria.* The department of administrative
17 services, in collaboration with the department of education,
18 shall evaluate innovative financing partnership contract
19 proposals based on all of the following criteria:

20 *a.* Expected outcomes shall be budget-neutral or better,
21 after accounting for projected cost reductions from positive
22 educational and developmental outcomes that have both a
23 positive fiscal impact on governments and are strongly
24 supported by a given historical model.

25 *b.* Payment shall be conditioned on achievement of specific
26 outcomes based on defined performance targets.

27 *c.* An objective process shall be used by an independent
28 evaluator to determine whether defined performance targets have
29 been achieved.

30 *d.* A schedule of payments shall be made, including a return
31 on investment calculation and a calculation of the amounts
32 of payments that would be earned by the service provider if
33 defined performance targets are achieved as determined by the
34 independent evaluator.

35 *e.* A determination shall be made by the department of

1 administrative services, in collaboration with the department
2 of education, that the contract proposal will result in
3 significant performance improvements and budgetary savings
4 across all affected agencies if the performance targets are
5 achieved, and that the savings will exceed the debt service
6 requirements of any notes issued in accordance with this
7 chapter.

8 *f.* A clear description shall be made of the programming that
9 will be provided by the service provider.

10 4. *Additional weighting.* The department may assign
11 additional weight to contract proposals that meet any of the
12 following requirements:

13 *a.* Are submitted by service providers that demonstrate a
14 strong commitment to ongoing professional development.

15 *b.* Demonstrate a mix of public and private service
16 providers.

17 *c.* Demonstrate the use of new and enhanced services for
18 children.

19 *d.* Are received from cities or school districts with a
20 higher percentage of families whose family income is at or
21 below two hundred fifty percent of the federal poverty level as
22 defined by the most recently revised poverty income guidelines
23 published by the United States department of health and human
24 services.

25 *e.* Are received from cities or school districts with a
26 higher percentage of immigrant and refugee families.

27 *f.* Demonstrate a plan to combine funding streams to bolster
28 the services provided to the targeted population.

29 *g.* Demonstrate strategies to improve early mathematic
30 skills and early literacy skills, including the literacy
31 skills of children who have been identified as limited English
32 proficient.

33 *h.* Demonstrate strategies to increase family engagement and
34 connect families to other community resources.

35 *i.* Provide a comprehensive child development program.

- 1 *j.* Limit class size.
- 2 *k.* Establish a student-teacher ratio of not more than eight
3 students for every one teacher.
- 4 *l.* Demonstrate substantial parental involvement.
- 5 *m.* Demonstrate community support.
- 6 *n.* Utilize services provided by other community agencies.
- 7 *o.* Utilize teachers licensed under chapter 272.
- 8 *p.* Include a plan for program evaluation that includes but
9 is not limited to the measurement of student outcomes beyond
10 the outcomes measured under subsection 2, paragraph "c".
- 11 *q.* Serve communities with waiting lists for high-quality
12 prekindergarten services.
- 13 5. *Reporting requirements.* An innovative financing
14 partnership contract proposal shall also contain provisions
15 requiring a service provider to submit a biannual report to
16 the department detailing the service provider's progress in
17 executing or performing the contract, and requiring that the
18 independent evaluator submit an annual report to the department
19 and to the general assembly detailing any available data
20 relating to performance target outcomes measures being used
21 by the independent evaluator in accordance with subsection 2,
22 paragraph "c".
- 23 Sec. 3. NEW SECTION. 256E.3 Contract — financing —
24 general and specific bonding powers.
- 25 1. *Authority to execute contract.* Subject to an
26 appropriation of funds for the purpose stated in section
27 256E.2, the director may enter into an innovative financing
28 partnership contract upon receiving the governor's and the
29 executive council's approval of the innovative financing
30 partnership contract proposal that meets the requirements of
31 section 256E.2. The director may make payments from the fund
32 established under section 256E.4, subsection 1, pursuant to the
33 innovative financing partnership contract entered into under
34 this section based on achievement of the defined performance
35 targets as provided in section 256E.2, subsection 3, paragraph

1 "c". The director shall, not later than February 1 of each year
2 in which a contract entered into under this section remains in
3 force and effect, provide to the general assembly an annual
4 status report on any innovative financing partnership contracts
5 entered into under this section.

6 2. *Financing authority.* To provide funds for payments under
7 subsection 1, the treasurer of state, upon the request of the
8 director, may issue innovative financing partnership notes in
9 the manner described for the issuance of bonds under chapter
10 12A and do all things necessary with respect to the purposes
11 of this chapter. The maximum maturity of the notes, including
12 renewals, shall not exceed fifteen years from the date of issue
13 of the original notes. The treasurer of state shall have all
14 of the powers which are necessary to issue and secure notes and
15 carry out the purposes of the innovative financing partnership
16 fund. The treasurer of state may issue notes in principal
17 amounts which, in the opinion of the treasurer of state, are
18 necessary to provide sufficient funds for the innovative
19 financing partnership fund, the payment of interest on the
20 notes, the establishment of reserves to secure the notes, the
21 costs of issuance of the notes, other expenditures of the
22 treasurer of state incident to and necessary or convenient
23 to carry out the note issuance for the innovative financing
24 partnership fund, and all other expenditures of the treasurer
25 of state necessary or convenient to administer the innovative
26 financing partnership fund; provided, however, excluding the
27 issuance of refunding notes, notes issued pursuant to this
28 section shall not be issued in an aggregate principal amount
29 that exceeds ten million dollars. The notes are investment
30 securities and negotiable instruments within the meaning of and
31 for purposes of the uniform commercial code, chapter 554.

32 3. A contract entered into under this section shall at a
33 minimum include the following:

34 a. A requirement that the repayment to the investors be
35 conditioned on specific performance outcome measures set in the

1 innovative financing partnership contract.

2 *b.* A requirement for an independent evaluator to determine
3 whether the outcomes have been achieved in accordance with
4 section 256E.2, subsection 2, paragraph "c".

5 *c.* A provision that repayment to the investors be based upon
6 available moneys in the innovative financing partnership fund
7 and subject to appropriation by the general assembly.

8 *d.* A provision that the investors are ineligible to
9 receive or view any personally identifiable student data of
10 students receiving prekindergarten services funded through the
11 innovative financing partnership contract entered into under
12 this section.

13 4. An innovative financing partnership contract entered
14 into under this section is exempt from the provisions and
15 requirements of chapter 8A relating to procurement.

16 5. *Limitations.* Notes issued under this section are payable
17 solely and only out of the moneys, assets, or revenues of the
18 innovative financing partnership fund and any note reserve
19 funds established pursuant to section 256E.4, all of which
20 may be deposited with trustees or depositories in accordance
21 with note or security documents and pledged by the commission
22 to the payment thereof. Notes issued under this section
23 shall contain on their face a statement that the notes do not
24 constitute an indebtedness of the state. The treasurer of
25 state shall not pledge the credit or taxing power of this state
26 or any political subdivision of this state or make notes issued
27 pursuant to this section payable out of any moneys except those
28 in the innovative financing partnership fund.

29 Sec. 4. NEW SECTION. **256E.4 Innovative financing**
30 **partnership fund.**

31 1. *Fund established.* An innovative financing partnership
32 fund is created and established as a separate and distinct
33 fund in the state treasury. The moneys in the innovative
34 financing partnership fund are appropriated to the department
35 for purposes of the innovative financing partnership program as

1 set out in the contract between the director and the service
2 provider in accordance with section 256E.3. Moneys in the fund
3 shall not be subject to appropriation for any other purpose by
4 the general assembly, but shall be used only for the purposes
5 of this chapter. The treasurer of state shall act as custodian
6 of the fund and disburse moneys contained in the fund as
7 directed by the director, including automatic disbursements of
8 funds received pursuant to the terms of the contract entered
9 into under section 256E.3. The fund shall be administered
10 by the director who shall make expenditures from the fund
11 consistent with the purposes of this chapter without further
12 appropriation.

13 2. *Revenue for fund.* Revenue for the innovative financing
14 partnership fund shall include but is not limited to the
15 following, which shall be deposited with the treasurer of
16 state or the treasurer's designee as provided by any security
17 documents and credited to the fund:

18 a. The proceeds of notes issued to capitalize and pay the
19 costs of the fund and investment earnings on the proceeds of
20 the fund.

21 b. Interest attributable to investment of moneys in the fund
22 or an account of the fund.

23 c. Moneys received from the department of management under
24 section 256E.5.

25 d. Moneys in the form of a devise, gift, bequest, donation,
26 federal or other grant, reimbursement, repayment, judgment,
27 transfer, payment, or appropriation from any source intended to
28 be used for the purposes of the fund.

29 3. *Nonreversion.* Notwithstanding section 8.33, moneys
30 in the innovative financing partnership fund at the end of
31 each fiscal year shall not revert to the general fund of
32 the state but shall remain available for the purposes of the
33 fund. Notwithstanding section 12C.7, subsection 2, interest or
34 earnings on moneys in the fund shall be credited to the fund.

35 4. *Note reserve and special funds.* The treasurer of state

1 may create and establish, in the same manner and under the same
2 conditions and requirements as provided in chapter 12A, one
3 or more special funds, to be known as note reserve funds, to
4 secure one or more issues of notes issued pursuant to section
5 256E.3.

6 Sec. 5. NEW SECTION. 256E.5 School district payments.

7 Notwithstanding section 256C.4, subsection 1, paragraph
8 "e", at the close of each fiscal year in which the department
9 determines that the performance targets and savings specified
10 under the contract entered into pursuant to section 256E.3 have
11 been achieved, the board of directors of each school district
12 shall pay to the department of management any unexpended or
13 unencumbered moneys remaining from preschool foundation aid
14 received in the previous fiscal year by the school district
15 under section 257.16. Any moneys paid under this section
16 shall be deposited by the department of management in the
17 innovative financing partnership fund.

18 Sec. 6. NEW SECTION. 256E.6 Limitations.

Innovative financing partnership notes issued pursuant to this chapter are not debts of the state or of any political subdivision of the state, do not constitute a pledge of the faith and credit of the state, and are not a charge against the general credit or general fund of the state. The issuance of any notes pursuant to this chapter by the treasurer of state does not directly, indirectly, or contingently obligate the state or a political subdivision of the state to apply moneys from, or to levy or pledge any form of taxation whatsoever to, the payment of the notes. Notes issued under this chapter are payable solely and only from the sources and funds referred to in sections 256E.3 through 256E.5.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill establishes, subject to an appropriation by the
35 general assembly for the purpose of facilitating the provision

1 of prekindergarten education services under innovative
2 financing partnership contracts as a means to reduce the
3 costs for such services, an innovative financing partnership
4 program to be administered by the department of administrative
5 services (DAS), in collaboration with the department of
6 education. The bill authorizes the director of the department
7 of administrative services to enter into a contract with
8 various parties under certain conditions.

9 PARTIES TO CONTRACT. The parties in an innovative financing
10 partnership contract shall consist of one or more providers of
11 prekindergarten services; investors who provide the capital to
12 expand and deliver prekindergarten services under the contract,
13 including but not limited to philanthropic investors seeking
14 a full or partial financial return, and federal agencies
15 that are not seeking a financial return; an independent
16 evaluator; and one or more outcomes payers who agree to pay the
17 investors only if the independent evaluator determines that the
18 prekindergarten services provided under the contract result in
19 the improvements identified. Outcomes payers may also include
20 any governmental entity, including but not limited to a school
21 district, or any private entity who agrees to commit to pay
22 investors for outcomes achieved. Investors may be paid for the
23 principal invested and interest earned, but the total payment
24 from the state shall not exceed 90 percent of the state's
25 budgetary value for the outcomes.

26 CONTRACT PROPOSAL CRITERIA. DAS must evaluate contract
27 proposals based on the expected outcomes, which must be
28 budget-neutral or better, after accounting for projected cost
29 reductions from positive educational and developmental outcomes
30 that have both a positive fiscal impact on governments and
31 are strongly supported by a given historical model; payment
32 conditioned on achievement of specific outcomes; an objective
33 process to be used by an independent evaluator to determine
34 whether performance targets have been achieved; a schedule of
35 payments, including a return on investment calculation and a

1 calculation of the amounts of payments earned; a determination
2 by DAS, in collaboration with the department of education, that
3 the contract proposal will result in significant performance
4 improvements and budgetary savings, and that the savings will
5 exceed the debt service requirements of any notes issued by the
6 treasurer of state, and a clear description of the programming
7 that will be provided by the service provider.

8 ADDITIONAL WEIGHTING. DAS may assign additional weight to
9 contract proposals that meet any of the criteria identified in
10 the bill.

11 CONTRACT REPORTING REQUIREMENTS. An innovative financing
12 partnership contract proposal must contain provisions requiring
13 the service provider to submit a biannual report to the
14 general assembly detailing the service provider's progress,
15 and requiring that the independent evaluator submit an
16 annual report to the general assembly. The contract must,
17 at a minimum, include a requirement that the repayment to
18 the investor be conditioned on specific performance outcome
19 measures set in the contract, a requirement for an independent
20 evaluator to determine whether the outcomes have been achieved,
21 a provision that repayment to the investor be based upon
22 available moneys in the innovative financing partnership fund
23 and subject to appropriation by the general assembly, and that
24 the investors are ineligible to receive or view any personally
25 identifiable student data of students receiving prekindergarten
26 services funded through the contract.

27 INNOVATIVE FINANCING PARTNERSHIP — CONTRACT AUTHORITY
28 AND FINANCING POWERS. The DAS director may enter into an
29 innovative financing partnership contract upon receiving
30 the governor's and the executive council's approval of the
31 contract; may make payments pursuant to the contract and based
32 on achievement of the performance targets; and shall, not later
33 than February 1 of each year in which a contract remains in
34 force and effect, provide to the department and to the general
35 assembly an annual status report.

1 FINANCING AUTHORITY. To provide funds for payments, the
2 treasurer of state may, upon the request of the DAS director,
3 issue notes in the manner described for the issuance of bonds
4 under Code chapter 12A. Such notes are payable solely and
5 only out of the moneys, assets, or revenues of the innovative
6 financing partnership fund and any note reserve funds the
7 treasurer of state is authorized to establish under the bill.
8 The maximum maturity of the notes, including renewals, is 15
9 years from the original note issuance date. Notes issued
10 shall contain on their face a statement that the notes do not
11 constitute an indebtedness of the state.

12 FUND. An innovative financing partnership fund is created
13 and established as a separate and distinct fund in the state
14 treasury. The moneys in the fund are appropriated to the
15 DAS for purposes of the innovative financing partnership
16 program set out in the contract between the director and the
17 service provider. Moneys in the fund shall not be subject to
18 appropriation for any other purpose by the general assembly.

19 Revenue for the fund shall include but is not limited to
20 the proceeds of notes issued to capitalize and pay the costs
21 of the fund and investment earnings on the proceeds, interest
22 attributable to investment of money in the fund or an account
23 of the fund, moneys from the department of management, and
24 moneys from any source intended to be used for the purposes of
25 the fund. Moneys in the fund and any interest earned on moneys
26 in the fund are not subject to reversion.

27 SCHOOL DISTRICT PAYMENTS. At the close of each fiscal
28 year, school boards must pay to the department of management
29 any unexpended or unencumbered moneys remaining from preschool
30 foundation aid received in the previous fiscal year by the
31 school district. The department of management is directed to
32 deposit such moneys in the innovative financing partnership
33 fund.

34 LIMITATIONS. Notes issued by the treasurer of state for
35 purposes of innovative financing partnership contracts are not

1 debts of the state, nor of any political subdivision of the
2 state, and do not constitute a pledge of the faith and credit
3 of the state or a charge against the general credit or general
4 fund of the state. The notes issued are payable solely and
5 only from the funds created in accordance with the bill.